



DEL ROSARIO PANDIPHIL Inc.

“Del Rosario & Del Rosario is more or less unrivalled when it comes to maritime work in the Philippines” from Asia-Pacific, The Legal 500, 2014, p. 497

Philippine Shipping Update – Manning Industry

By: Ruben Del Rosario, President, Del Rosario Pandiphil Inc., September 16, 2014 (Issue 2014/16)

Supreme Court finds colon cancer not proven to be work-related

Seafarer was hired as an assistant butcher by the company. Prior to his employment, he was declared fit in his pre-employment medical examination (PEME). During his employment with the company, seafarer suffered rectal bleeding and abdominal pain for which reason, he was disembarked and confined in a shore hospital. He was then diagnosed with a “malignant neoplasm infiltrating colonic mucosa.” Subsequently, he was medically repatriated and referred to the company-designated doctors. There he was diagnosed to be suffering from colon cancer, Stage IV—the most advanced stage. Sixteen days after, he passed away as a result of cardiopulmonary arrest secondary to sepsis and multiple organ failure secondary to colon cancer, Stage IV (bone metastasis).

The heirs of the seafarer filed a complaint for death benefits against the company.

The Labor Arbiter rendered a Decision in favor of the heirs and awarded death benefits under the contract. The Labor Arbiter held that while the heirs had failed to establish that seafarer’s death was reasonably connected to his work, he nevertheless took judicial notice of the fact that the diet of the ship’s crew seldom contained vegetables and high-fiber foods, likely contributing to the worsening of seafarer’s condition.

Upon appeal, the NLRC reversed the ruling of the Labor Arbiter. It ruled that the Labor Arbiter erred when it formed its own scenarios, surmises and conclusions on what could have caused seafarer’s colon cancer on board the vessel. These scenarios were not even raised by the heirs in their pleadings, nor was there any evidence to prove the relation of the work of seafarer to his death. Furthermore, the NLRC found that his death occurred after the termination of his contract, a fact that should have been the ground for the outright dismissal of the heirs’ claim.

The heirs elevated the matter to the Court of Appeals which likewise denied their claim. It was held that the death of a seafarer is compensable only if it occurs during the term of his contract of employment. Upon seafarer’s medical repatriation, the obligation to pay the death benefits ceased in accordance with the parties’ employment contract. It also opined that the heirs failed to provide sufficient proof that the illness was reasonably connected to seafarer’s work, or that colon cancer was an accepted occupational disease.

The Supreme Court affirmed the denial of death benefits.

The Supreme Court took note of the rule that for death to be compensable under the POEA-SEC, the same must occur during the term of employment. However, the Supreme Court likewise held that the POEA-SEC likewise considers the possibility of compensation for the death of a seafarer occurring after the termination of the employment contract on account of a work-related illness. But for death to be compensable, the claimant must fulfill all the requisites for compensability.

In this case, the heirs failed to substantiate their argument that the colon cancer of the seafarer is related to his work on-board the vessel. The heirs merely relied on the argument that the illness is disputably presumed to be work-related but failed either to establish or even to mention the risks that could have caused or, at the very least,

contributed to the disease contracted by the seafarer.

The Supreme Court likewise debunked the argument of the heirs that since the seafarer was declared fit in the PEME, then his illness was suffered during employment. It was held that the PEME cannot be a conclusive proof that the seafarer was free from any ailment prior to his deployment. The PEME is not exploratory in nature. It is not intended to be a totally in-depth and thorough examination of an applicant's medical condition. It merely determines whether one is "fit to work" at sea or "fit for sea service"; it does not state the real state of health of an applicant.

Joraina Dragon Talosig vs. United Philippine Lines, Inc., et. al; G.R. No. 198388, July 28, 2014; First Division; Chief Justice Maria Lourdes Sereno, Ponente (Attys. Florencio Aquino and Charles Jay Dela Cruz handled for vessel interests).

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This publication aims to provide commentary on issues affecting the manning industry, analysis of recent cases and updates on legislation. It is meant to be brief and is not intended to be legal advice. For further information, please email ruben.delrosario@delrosario-pandiphil.com.

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